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CLERK U.S. DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MICHAEL HELM,

Plaintiff,

v.

HOME DEPOT, U.S.A., INC. a corporation  
registered or authorized to do business in Nevada  
and DOES 1-25, inclusive,

Defendants.

Case No.: 3-10-cv-00026-ECR-RAM

**STIPULATED PROTECTIVE ORDER**

Subject to approval of this Court, the parties hereby stipulate to the following  
Protective Order.

1. All documents, materials, items, and/or information which contain or  
comprise proprietary, confidential, development and/or commercial information produced

1 by Defendant to Plaintiff shall be governed by this Protective Order.

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3 2. Any information as defined above produced by Defendant, HOME DEPOT,  
4 U.S.A., INC. as part of discovery in this action may be designated "Confidential." As a  
5 general guideline, materials designated "Confidential" shall be those confidential and  
6 sensitive things that may be disclosed to the parties for the purpose of the litigation, but  
7 which must be protected against disclosure to third parties. As a general guideline,  
8 materials designated "Confidential" shall be those confidential and sensitive things of a  
9 proprietary business nature which might be of value to a potential competitor of the  
10 Defendant holding the proprietary rights thereto, and which must be protected from  
11 disclosure to any such third parties. Absent a specific order by this Court., information  
12 once designated as "Confidential" shall be used by parties solely in connection with this  
13 litigation, and not for any business, competitive, or governmental purpose or function and  
14 such information shall not be disclosed to anyone except as provided herein.  
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18 3. To come within the provisions of this Protective Order, the producing party  
19 shall designate, in writing, the documents, information, or portions thereof it considers  
20 confidential at the time such documents are produced or such information is disclosed, or  
21 as soon thereafter as the person or entity seeking protection becomes aware of the nature  
22 of the information or materials disclosed and sought to be protected hereunder. In the  
23 instance of documents, the items produced must be marked "Confidential" by the  
24 producing party. In the instance of depositions, counsel may, in the record of the  
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1 deposition, designate the transcript or portion thereof as "Confidential" and only those  
2 identified in paragraphs 4 and 5 may then be present in the depositions. The witness  
3 under deposition or his/her counsel may invoke the provisions of this Protective Order in  
4 a timely manner, giving adequate warning to counsel that testimony about to be given is  
5 deemed "Confidential." The designations should be made on the record whenever  
6 possible, but a party may designate portions of a deposition "Confidential" provided  
7 written notice of such designation is given no later than fifteen (15) days following  
8 receipt of the deposition transcript.  
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12 A. Either party may invoke the provisions of this Protective Order  
13 retroactively, to designate information or deposition testimony  
14 provided during the discovery period of this litigation prior to the  
15 execution of, and entry of, this Stipulation and Order by complying  
16 with the designation provisions of this Stipulated Protective Order  
17 within fifteen (15) days of the entry of this Order by the Court.  
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20 4. Documents, deposition testimony, or answers to interrogatories stamped  
21 "Confidential," or copies or extracts therefrom, and compilations and summaries thereof,  
22 and the information therein, may be given, shown, made available to, or communicated in  
23 any way only to those parties or other persons who agree in advance to abide by this  
24 Protective Order and to whom it is necessary that the material be shown for purposes of  
25 this litigation.  
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1           5. Documents, deposition testimony, or answers to interrogatories stamped  
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3       “Confidential,” or copies or extracts therefrom, and compilations and summaries thereof,  
4       and the information therein, may be given shown, made available to, or communicated in  
5       any way only to (a) the trial counsel designated on the pleadings for the law firms of  
6       record in this action and those of their staff and independent contractors to whom it is  
7       necessary that the materials be shown for the purposes of this litigation; (b) consultants as  
8       defined in Paragraph 6 hereof and pursuant to the provisions of Paragraph 7 hereof.  
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10           6. For purposes of Paragraph 5(b) hereof, a consultant shall be defined as a  
11       person who is not an employee of a party nor anticipated to become an employee in the  
12       near future, and who is retained or employed as a bona fide consultant or expert for  
13       purposes of this litigation, whether full or part-time, by or at the direction of counsel for a  
14       party.  
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17           7. The procedure for having a consultant or expert obtain copies of the information  
18       which is the subject of this Protective Order and designated “Confidential” shall be as follows:

19           (a) The party providing the information to a consultant, as defined in  
20               paragraph 6 hereof, shall obtain a written acknowledgment in the form of  
21               Exhibit 1 attached hereto, signed by the consultant, that the consultant has  
22               read this Protective Order and agrees to be bound by its terms.  
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24           (b) Further, this executed form of Exhibit 1 is to be retained in the file of  
25               Plaintiff's counsel through the pendency of the case and beyond as  
26               recovered by American Bar Association retention requirements.  
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1           8. All confidential information covered by this order shall be kept in secure facilities  
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3       at trial counsel's offices or the offices of the expert or consultant and access to those documents  
4       and facilities shall be permitted only to those designated persons set forth in Paragraphs 4, 5 and  
5       6 of this Protective Order as persons properly having access thereto under the appropriately  
6       designated degree of confidentiality. All counsel for the parties and consultants and experts who  
7       have access to confidential information under this Protective Order acknowledge they are bound  
8       by this Order and submit to the jurisdiction of this Court for purposes of enforcing this Order.  
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10           9. All confidential information covered by this order shall be kept in secure  
11       facilities at trial counsel's offices or the offices of the expert or consultant and access to  
12       those documents and facilities shall be permitted only to those designated persons set  
13       forth in Paragraphs 4, 5 and 6 of this Protective Order as persons properly having access  
14       thereto under the appropriately designated degree of confidentiality. All counsel for the  
15       parties and consultants and experts who have access to confidential information under  
16       this Protective Order acknowledge they are bound by this Order and submit to the  
17       jurisdiction of this Court for purposes of enforcing this Order.  
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20           10. If a party determines that any pages or parts of court papers, discovery responses,  
21       production of documents or things, deposition transcripts or any other production made during  
22       the course of this litigation which has been designated as containing "Confidential," or any  
23       document purporting to reproduce or paraphrase such "Confidential" materials is required to be  
24       filed with the Court, the party seeking to file such materials with the Court must first seek an  
25       Order from the Court to file such "Confidential" materials under seal by filing a Motion for  
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1 Order to File Materials Under Seal, and allowing the other parties, if necessary, the opportunity  
2 to file a Motion, Joinder or Opposition setting forth the basis for the “good cause” or  
3 “compelling reasoning” that the “Confidential” materials be sealed by the Court consistent with  
4 the holding set forth in Kamakana v. City and County of Honolulu, 447 F.3d 1172 (9<sup>th</sup> Cir.,  
5 2006).

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7 11. If any document or information designated to be “Confidential” pursuant to  
8 this Protective Order is used during the course of a deposition herein, that portion of the  
9 deposition record reflecting such confidential information shall be sealed and stamped  
10 with the designated degree of confidentiality, and access thereto shall be limited pursuant  
11 to the other terms of this Protective Order.  
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14 12. If, at any time during the pendency or trial of this action, counsel for any  
15 party claims that counsel for any other party is claiming certain information produced  
16 herein to be confidential, objecting counsel may make an appropriate application to this  
17 Court, with confidential portions thereof to be kept under seal, requesting that  
18 specifically, identified documents, information, and/or deposition testimony be excluded  
19 from the provisions of this Protective Order or downgraded in terms of the degree of  
20 protection provided.  
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23 13. The trial statements submitted by the parties in this action shall address the  
24 treatment at trial of documents, information or testimony designated “Confidential”  
25 pursuant to this Protective Order unless the confidentiality of such information has been  
26 removed by agreement of counsel or by this Court in accordance with the provisions of  
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Paragraph 11 of this Protective Order.

14. The terms of this Protective Order shall apply to all manner and means of discovery, including inspection of records, documents, and tangible things.

15. This Protective Order shall be effective on the date entered by the Court.

16. At the conclusion of this action all originally produced confidential materials and/or information shall be placed in counsel's closed and sealed file and retained solely for the purposes of required retention and shall not be used in future cases, or disseminated in any manner. Further, any extra or additional copies of such confidential materials and/or information shall be destroyed within 30 days of the conclusion of this action.

IT IS SO STIPULATED this 13th day of December, 2010.

PERRY, SPANN & WESTBOOK  
A Professional Corporation

STEVEN J. KLEARMAN & ASSOCIATES

*/s/ Alan W. Westbrook*

*/s/ Steven J. Klearman*

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IT IS SO ORDERED this 13th day of December, 2010.



UNITED STATES MAGISTRATE JUDGE